

Executive Summary – Enforcement Matter – Case No. 47748

City of Galveston

RN101607091

Docket No. 2013-1847-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Galveston Main Plant, located at 5200 Port Industrial Boulevard, Galveston, Galveston County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 21, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$15,750

Amount Deferred for Expedited Settlement: \$3,150

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$12,600

Name of SEP: Galveston Bay Foundation, Inc.

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

**Executive Summary – Enforcement Matter – Case No. 47748
City of Galveston
RN101607091
Docket No. 2013-1847-MWD-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: September 6, 2013
Date(s) of NOE(s): September 13, 2013

Violation Information

Failed to comply with permitted effluent limitations for ammonia nitrogen and *Enterococci* [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010688001, Interim II Phase Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By September 30, 2013, the Respondent implemented the following measures:

- a. Installed a new three inch centrifugal pump to deliver wasted sludge to the belt press;
- b. Updated policies and procedures for wastewater treatment plant operation; and
- c. Replaced the Facility's previous wastewater treatment plant operator in order to ensure wastewater treatment requirements and plant operations are conducted appropriately.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to, within 180 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010688001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Executive Summary – Enforcement Matter – Case No. 47748
City of Galveston
RN101607091
Docket No. 2013-1847-MWD-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Remington Burklund, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2611; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: Michael Kovacs, City Manager, City of Galveston, P.O. Box 779, Galveston, Texas 77553
David Van Riper, Director of Municipal Utilities, City of Galveston, P.O. Box 779, Galveston, Texas 77553
Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-1847-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Galveston
Penalty Amount:	Twelve Thousand Six Hundred Dollars (\$12,600)
SEP Offset Amount:	Twelve Thousand Six Hundred Dollars (\$12,600)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Galveston Bay Foundation, Inc.
Project Name:	<i>Galveston Bay “Marsh Mania” Restoration Program</i>
Location of SEP:	Harris, Galveston, Chambers, and Brazoria Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Galveston Bay Foundation, Inc.** for the *Galveston Bay “Marsh Mania” Restoration Program*. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to reestablish marsh habitat to Galveston Bay by restoring marsh elevations to those that will support marsh vegetation and protect marsh habitats from the threat of erosion. The Third-Party Administrator shall also plant salinity-appropriate marsh grasses to reestablish the habitat. The SEP Offset Amount will be used for on-the-ground site preparation and construction of marsh restoration sites, including supplies, materials, equipment, and contractual labor costs, excluding compensation of Galveston Bay Foundation personnel or volunteers.

Restoration work will take place in and around Galveston Bay, its sub-bays, and its tributaries throughout Harris, Galveston, Chambers, and Brazoria Counties. The specific locations will be determined based on local prioritization and needs. The Third-Party Administrator, at its own expense, shall work with local steering

committees comprised of leaders from government agencies and local organizations to identify and prioritize sites. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Due to the loss of wetlands in the Galveston Bay system, the Galveston Bay National Estuary Program identified wetland restoration, creation, and protection as the number one priority in the *Galveston Bay Plan*.

Marshes along coastal Texas, including Galveston Bay, serve as nursery grounds for over 95% of the recreational and commercial fish species found in the Gulf of Mexico as well as many varieties of shrimps and crabs. These habitats also provide breeding, nesting, and feeding grounds for more than one-third of all threatened and endangered animal species, support many endangered plant species, and provide permanent and seasonal habitat for a great variety of wildlife, including finfish and shellfish and 75% of North America's bird species. Marshes also result in the reduction of pollution by filtering particulates and excess nutrients from runoff and serve to protect shorelines from erosion and help reduce the effects of flooding and storm surges on more upland areas.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Galveston Bay Foundation SEP** and shall mail the contribution with a copy of the Agreed Order to:

City of Galveston
Agreed Order - Attachment A

Robert Stokes, President
Galveston Bay Foundation, Inc.
17330 Highway 3
Webster, Texas 77598-4133

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP. The Respondent shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part**

of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	16-Sep-2013	Screening	24-Sep-2013	EPA Due	5-Dec-2013
	PCW	28-Apr-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Galveston		
Reg. Ent. Ref. No.	RN101607091		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	47748	No. of Violations	1
Docket No.	2013-1847-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Remington Burklund
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$11,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **40.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,500**

Notes Enhancement for seven months of self-reported effluent violations and one NOV with same/similar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$873**
Approx. Cost of Compliance **\$10,000**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$15,750**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$15,750**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$15,750**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$3,150**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$12,600**

Screening Date 24-Sep-2013

Docket No. 2013-1847-MWD-E

PCW

Respondent City of Galveston

Policy Revision 3 (September 2011)

Case ID No. 47748

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101607091

Media [Statute] Water Quality

Enf. Coordinator Remington Burklund

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	8	40%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for seven months of self-reported effluent violations and one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 40%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 40%

Screening Date 24-Sep-2013

Docket No. 2013-1847-MWD-E

PCW

Respondent City of Galveston

Policy Revision 3 (September 2011)

Case ID No. 47748

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101607091

Media [Statute] Water Quality

Enf. Coordinator Remington Burklund

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), Texas
Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010688001,
Interim II Phase Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record
review conducted on September 6, 2013, and shown in the attached violation
table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix
Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged
amounts of pollutants exceeded levels protective of human health or the environment. Enterococci
were also considered. As a result of these discharges, human health or the environment has been
exposed to insignificant amounts of pollutants which do not exceed levels protective of human
health or the environment.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3

243 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three quarterly events are recommended for the quarters containing the months of October 2012
and January 2013 through June 2013.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for
this violation.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$873

Violation Final Penalty Total \$15,750

This violation Final Assessed Penalty (adjusted for limits) \$15,750

Economic Benefit Worksheet

Respondent City of Galveston
 Case ID No. 47748
 Reg. Ent. Reference No. RN101607091
 Media Water Quality
 Violation No. 1

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Oct-2012	30-Jul-2014	1.75	\$873	n/a	\$873

Notes for DELAYED costs

Estimated cost to determine the cause of non-compliance and return to compliance with permitted effluent limitations. Date required is the initial date of non-compliance. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$873

City of Galveston
Docket No. 2013-1847-MWD-E
TPDES Permit No. WQ0010688001

Effluent Parameter Violation Table

	Ammonia Nitrogen			Enterococci
	Daily Average Concentration	Daily Average Loading	Daily Maximum Concentration	Daily Maximum
Month/Year	Limit = 2.0 mg/L	Limit = 108 lbs/day	Limit = 10 mg/L	Limit = 89 CFU/100 ml
October 2012	c	c	c	99
January 2013	c	111.19	c	131
February 2013	4.3	197.9	11.4	c
March 2013	2.5	c	c	c
April 2013	c	c	c	134
May 2013	2.17	c	11.4	c
June 2013	c	c	c	106

c = compliant

CFU = Colony Forming Units

lbs/day = pounds per day

ml = milliliters

mg/L = milligrams per
liter

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

Customer, Respondent, or Owner/Operator: CN600241376, City of Galveston

Classification: SATISFACTORY

Rating: 3.26

Regulated Entity: RN101607091, CITY OF GALVESTON
MAIN PLANT

Classification: SATISFACTORY

Rating: 6.38

Complexity Points: 10

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: 5200 PORT INDUSTRIAL BOULEVARD, GALVESTON, TX, GALVESTON COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

WASTEWATER PERMIT WQ0010688001

WASTEWATER EPA ID TX0047309

WASTEWATER AUTHORIZATION R10688001

PRETREATMENT EPA ID TX0047309000

PRETREATMENT PERMIT WQ0010688001

WASTEWATER LICENSING LICENSE WQ0010688001

STORMWATER PERMIT TXR15UK83

STORMWATER PERMIT TXR05BA71

Compliance History Period: September 01, 2008 to August 31, 2013

Rating Year: 2013

Rating Date: 09/01/2013

Date Compliance History Report Prepared: September 24, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 24, 2008 to September 24, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Remington Burkland

Phone: (512) 239-2611

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	June 25, 2009	(759750)
Item 2	July 23, 2009	(809114)
Item 3	August 25, 2009	(749177)
Item 4	September 28, 2009	(809117)
Item 5	February 18, 2010	(809110)

Item 6	May 20, 2010	(832486)
Item 7	September 16, 2010	(874466)
Item 8	November 01, 2010	(874465)
Item 9	March 17, 2011	(916874)
Item 10	May 16, 2011	(938588)
Item 11	June 01, 2011	(926604)
Item 12	June 17, 2011	(945960)
Item 13	August 16, 2011	(959856)
Item 14	September 19, 2011	(965897)
Item 15	October 20, 2011	(971939)
Item 16	December 20, 2011	(984875)
Item 17	February 20, 2012	(998529)
Item 18	March 20, 2012	(1010627)
Item 19	August 28, 2012	(1038549)
Item 20	September 20, 2012	(1047408)
Item 21	October 18, 2012	(1063639)
Item 22	December 17, 2012	(1063641)
Item 23	December 18, 2012	(1080194)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- | | | | | |
|---|--------------|---|-----------------|----------|
| 1 | Date: | 10/31/2012 (1063640) | CN600241376 | |
| | Self Report? | YES | Classification: | Moderate |
| | Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | Description: | Failure to meet the limit for one or more permit parameter | | |
| 2 | Date: | 01/31/2013 (1080193) | CN600241376 | |
| | Self Report? | YES | Classification: | Moderate |
| | Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | Description: | Failure to meet the limit for one or more permit parameter | | |
| 3 | Date: | 02/28/2013 (1089888) | CN600241376 | |
| | Self Report? | YES | Classification: | Moderate |
| | Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | Description: | Failure to meet the limit for one or more permit parameter | | |
| 4 | Date: | 03/31/2013 (1096281) | CN600241376 | |
| | Self Report? | YES | Classification: | Moderate |
| | Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | Description: | Failure to meet the limit for one or more permit parameter | | |
| 5 | Date: | 04/30/2013 (1074543) | CN600241376 | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 317 317.4(a)(8) | | |
| | Description: | Failed to test the reduced-pressure principal backflow prevention assembly (RPBA) annually. | | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 317 317.3(c) | | |
| | Description: | Failed to achieve firm pumping capacity at the lift stations. | | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 317 317.3(a) | | |
| | Description: | Failed to secure the lift stations in an intruder resistant manner. | | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 305, SubChapter F 305.125(5) | | |
| | Description: | Failed to maintain the required alarm systems. | | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 317 317.3(e)(5) | | |
| | Description: | Failed to provide the required alarm system. | | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 305, SubChapter F 305.125(5) | | |

Description: Failed to maintain the lift pumps.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations and Monitoring Req. PERMIT

Description: Failed to maintain compliance with the permitted effluent limits.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Definitions and Standard Permit Cond. PERMIT

Description: Failed to properly calculate effluent loadings.

- 6 Date: 04/30/2013 (1107227) CN600241376
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 7 Date: 05/31/2013 (1110874) CN600241376
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 8 Date: 06/30/2013 (1117762) CN600241376
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF GALVESTON
RN101607091**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-1847-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Galveston ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located at 5200 Port Industrial Boulevard, in Galveston, Galveston County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 18, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fifteen Thousand Seven Hundred Fifty Dollars (\$15,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Three Thousand One Hundred Fifty Dollars (\$3,150) is deferred contingent upon the Respondent's timely and satisfactory compliance with all

the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Twelve Thousand Six Hundred Dollars (\$12,600) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that by September 30, 2013, the Respondent has implemented the following corrective measures at the Facility:
 - a. Installed a new three inch centrifugal pump to deliver wasted sludge to the belt press;
 - b. Updated Facility policies and procedures for wastewater treatment plant operation; and
 - c. Replaced the Facility's previous wastewater treatment plant operator in order to ensure wastewater treatment requirements and plant operations are conducted appropriately.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010688001, Interim II Phase Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on September 6, 2013, and shown in the violation table below:

Effluent Parameter Violation Table				
	Ammonia Nitrogen			Enterococci
	Daily Average Concentration	Daily Average Loading	Daily Maximum Concentration	Daily Maximum
Month/Year	Limit = 2.0 mg/L	Limit = 108 lbs/day	Limit = 10 mg/L	Limit = 89 CFU/100 ml
October 2012	c	c	c	99
January 2013	c	111.19	c	131
February 2013	4.3	197.9	11.4	c
March 2013	2.5	c	c	c
April 2013	c	c	c	134
May 2013	2.17	c	11.4	c
June 2013	c	c	c	106

c = compliant

CFU = Colony Forming Units

lbs/day = pounds per day

ml = milliliters

mg/L = milligrams per liter

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Galveston, Docket No. 2013-1847-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twelve Thousand Six Hundred Dollars (\$12,600) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The Respondent shall, within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010688001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes

aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

10/8/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

7/2/14
Date

Brian Maxwell
Name (Printed or typed)
Authorized Representative of
City of Galveston

Interim City Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2013-1847-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Galveston
Penalty Amount:	Twelve Thousand Six Hundred Dollars (\$12,600)
SEP Offset Amount:	Twelve Thousand Six Hundred Dollars (\$12,600)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Galveston Bay Foundation, Inc.
Project Name:	<i>Galveston Bay “Marsh Mania” Restoration Program</i>
Location of SEP:	Harris, Galveston, Chambers, and Brazoria Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Galveston Bay Foundation, Inc.** for the *Galveston Bay “Marsh Mania” Restoration Program*. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to reestablish marsh habitat to Galveston Bay by restoring marsh elevations to those that will support marsh vegetation and protect marsh habitats from the threat of erosion. The Third-Party Administrator shall also plant salinity-appropriate marsh grasses to reestablish the habitat. The SEP Offset Amount will be used for on-the-ground site preparation and construction of marsh restoration sites, including supplies, materials, equipment, and contractual labor costs, excluding compensation of Galveston Bay Foundation personnel or volunteers.

Restoration work will take place in and around Galveston Bay, its sub-bays, and its tributaries throughout Harris, Galveston, Chambers, and Brazoria Counties. The specific locations will be determined based on local prioritization and needs. The Third-Party Administrator, at its own expense, shall work with local steering

committees comprised of leaders from government agencies and local organizations to identify and prioritize sites. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Due to the loss of wetlands in the Galveston Bay system, the Galveston Bay National Estuary Program identified wetland restoration, creation, and protection as the number one priority in the *Galveston Bay Plan*.

Marshes along coastal Texas, including Galveston Bay, serve as nursery grounds for over 95% of the recreational and commercial fish species found in the Gulf of Mexico as well as many varieties of shrimps and crabs. These habitats also provide breeding, nesting, and feeding grounds for more than one-third of all threatened and endangered animal species, support many endangered plant species, and provide permanent and seasonal habitat for a great variety of wildlife, including finfish and shellfish and 75% of North America's bird species. Marshes also result in the reduction of pollution by filtering particulates and excess nutrients from runoff and serve to protect shorelines from erosion and help reduce the effects of flooding and storm surges on more upland areas.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Galveston Bay Foundation SEP** and shall mail the contribution with a copy of the Agreed Order to:

City of Galveston
Agreed Order - Attachment A

Robert Stokes, President
Galveston Bay Foundation, Inc.
17330 Highway 3
Webster, Texas 77598-4133

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP. The Respondent shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part**

of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.